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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/915,631	07/26/2001	Thomas A. Baudendistel	DP-304581 7500/66	6470

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EXAMINER

RODRIGUEZ, PAMELA

ART UNIT

PAPER NUMBER

3683

DATE MAILED: 02/03/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/915,631

Applicant(s)

BAUDENDISTEL ET AL.

Examiner

Pam Rodriguez

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 December 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

### DETAILED ACTION

1. The Amendment filed December 3, 2002 has been received and considered.

#### ***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-20 are rejected under 35 U.S.C. 102(b) as being anticipated by Yamakado et al.

Regarding Claim 1, Yamakado et al discloses a mount 162a/162b (see Figure 17) for a powertrain component 161 of a motor vehicle (see column 14 lines 57 et al) having all the features of the instant invention including: a first plate 41 connected to a powertrain component, a second plate 42 connected to a frame of a motor vehicle (as suggested by column 14 lines 57 et al), and means 167 for measuring a capacitance between the first plate and the second plate to derive an actual value (see column 7 lines 34-48), comparing the actual value with an expected value (see column 7 lines 53-59), and adjusting damping characteristics of the mount as a function of a difference between the actual value and the expected value (see column 8 lines 55-62 and column 14 line 57 – column 15 line 14 and note that the capacitance between plates 41 and 42 in the acceleration differential sensor discussed in column 7 and shown in Figure 4 can

be used by the system controller 167 to adjust the damping characteristics of the engine mounts 162a and 162b).

Regarding Claim 2, see controller 167.

Regarding Claim 3, again see means 167 which is readable as a capacitance-to-voltage device connected to the plates.

Regarding Claim 4, see Figure 17 wherein first plate 41 would be fixed relative to the powertrain equivalent component 161.

Regarding Claim 5, see Figure 17 and second plate 42 would be fixed to some portion of the frame of a motor vehicle.

Regarding Claim 6, see Claim 1 above.

Regarding Claim 7, see engine 161 in Figure 17.

Regarding Claims 8 and 9, see Figure 4 where inherently plates 41 and 42 would be alternately charged, i.e., one positively charged and one negatively charged.

Regarding Claim 10, see Claims 1 and 2 above.

Regarding Claim 11, see Claim 1.

Regarding Claim 12, see Claim 4.

Regarding Claim 13, see Claim 5.

Regarding Claim 14, see Claim 6.

Regarding Claim 15, note capacitance-to-voltage device 167 forms part of the controller and is thus connected to the controller.

Regarding Claim 16, see engine 161 in Figure 17.

Regarding Claims 17 and 18, see Claims 8 and 9 above.

Regarding Claim 19, see Claims 1, 2, 8, 9, and 10 above.

Regarding Claim 20, see Claim 6.

### ***Response to Arguments***

4. Applicant's arguments with respect to claims 1-20 have been considered but are moot in view of the new ground(s) of rejection.

### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

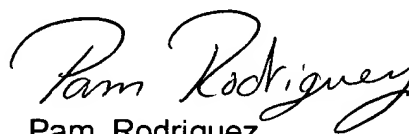
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Pam Rodriguez whose telephone number is 703-308-

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3657. The examiner can normally be reached on Mondays 6 am -4 pm and Tuesdays 6 am -12 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jack Lavinder can be reached on 703-308-3421. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.



Pam Rodriguez  
Primary Examiner  
Art Unit 3683

1/28/03

pr  
January 28, 2003